THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 3186 OF 2006

Dated 28th February 2007

Between:

Gangula Lakshmi & others

…Petitioner

and

The Sub-Registrar (Registration and Stamps)
Metpalli, Karimnagar District.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 3186 OF 2006

O R D E R:

The petitioners are said to be the owners of a house bearing No.1-10-151 of Kalanagar, Metpalli of Karimnagar District. They wanted to sell the property in favour of one Mr.A.Dayakar Reddy. To ascertain the stamp duty to be paid on the sale deed, they approached the respondent herein, for information. The latter, in turn, is said to have observed that the property is under attachment with the Commercial Tax Department, and that no sale deed would be entertained, in relation to the same. The petitioners seek appropriate direction, in this regard.

The respondent filed a counter affidavit stating, *inter alia* that the Deputy Commercial Tax Officer, Metpalli, marked a copy of the letter, dated 24.1.2006, in which it was stated that the property in question

was attached for recovery of arrears of commercial tax. He stated that the petitioners cannot alienate the property, even while the attachment is subsisting.

Heard the learned counsel for the petitioner and learned Government Pleader for the respondents.

The ownership of the petitioners over the property, referred to above, is not in dispute. Even assuming that an attachment is operating upon it, whether under any statute, or in pursuance of any order passed by a court, the same does not operate as a prohibition against alienation. The only difference is that whoever purchases, or otherwise acquires the property, would do so, together with the liability attached to it. In other words, even after the transfer, the attachment against the property would continue and the purchaser would be liable for the same. At any rate, the registering authority hardly has any role to play, in this regard. His duty is only to verify whether the necessary stamp duty and registration fee are paid, and that the other provisions of the relevant enactments are complied with.

For the foregoing reasons, the writ petition is allowed, and the respondent is directed to receive and process the document presented by the petitioners, without any reference to the order of attachment, *vis-à-vis* the property. There shall be no order as to costs.

28th February 2007

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